



[Billing Code 3290-F7]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket Number USTR-2016-0028

Privacy Act of 1974; System of Records

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of new, modified and rescinded systems of records and request for comments.

SUMMARY: As part of a comprehensive review of agency practices related to the disclosure of records and information, the Office of the United States Trade Representative (USTR) is updating both its systems of records and implementing rule under the Privacy Act of 1974 (Privacy Act). This notice concerns updates to USTR's Privacy Act system of records notices (SORNs). Elsewhere in this issue of the Federal Register, USTR is publishing a proposed rule that would update the agency's Privacy Act regulation. The rule describes how individuals can find out if a USTR system of records contains information about them and, if so, how to access or amend a record.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Unless USTR makes changes based on comments or otherwise, the changes made by this notice will become final and effective [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You should submit written comments through the Federal eRulemaking Portal: <http://www.regulations.gov>. The docket number for this notice is USTR-2016-0028. USTR invites comments on all aspects of the notice, and will revise the language as appropriate after taking all timely comments into consideration. Copies of all comments will be available for public viewing at www.regulations.gov upon completion of processing. You can view a submission by entering the docket number USTR-2016-0028 in the search field at <http://www.regulations.gov>. We will post comments without change and will include any personal information you provide, such as your name, mailing address, email address, and telephone number.

FOR FURTHER INFORMATION CONTACT: Janice Kaye, Monique Ricker or Melissa Keppel, Office of General Counsel, United States Trade Representative, Anacostia Naval Annex, Building 410/Door 123, 250 Murray Lane SW, Washington DC 20509, jkaye@ustr.eop.gov; mricker@ustr.eop.gov; mkeppel@ustr.eop.gov; 202-395-3150.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the requirements of the Privacy Act, USTR is publishing a notice of changes to its systems of records. See 5 U.S.C. 552a(e)(4) and (11). A system of records can be any collection or grouping of paper, electronic or other records an agency controls about individuals. It does not include agency records about businesses or about individuals who are not U.S. citizens or lawfully admitted aliens. To be a Privacy Act system of records, the agency must retrieve records about an individual from the system by that individual's name or by some other

identifier assigned to that individual, such as the individual's Social Security number or telephone number. The record also must be about that individual. If a record is only about someone or something else (e.g., about a business), it is not a record about that individual.

II. Rescinded SORNs

USTR is rescinding the following systems of records:

SYSTEM NUMBER AND NAME: USTR-1 Applicants for Employment.

SYSTEM NUMBER AND NAME: USTR-2 Correspondence Files.

SYSTEM NUMBER AND NAME: USTR-3 General Financial Records.

SYSTEM NUMBER AND NAME: USTR-4 Payroll Records.

We are rescinding the following SORNs because the information described in each notice is covered by a Government-wide SORN:

- USTR-1 Applicants for Employment
- USTR-3 General Financial Records
- USTR-4 Payroll Records

We are rescinding USTR-2, the SORN that covered correspondence files because USTR no longer maintains these records.

III. Modified and New SORNs

We are renumbering the SORN covering dispute settlement panelist rosters from USTR-6 to USTR-1. We also are updating the content of this SORN. We are adding two new SORNs, USTR-2 covering information collected from individuals interested in becoming trade advisory committee members, and USTR-3 covering Freedom of Information Act (FOIA) and Privacy Act records.

SYSTEM NUMBER AND NAME: USTR-1 Dispute Settlement Panelists Roster.

SECURITY CLASSIFICATION: None.

SYSTEM LOCATION/MANAGER: Office of the US Trade Representative, Office of General Counsel, 600 17th Street NW, Washington DC 20508. The mailing address is: Office of the US Trade Representative, Office of General Counsel, Anacostia Naval Annex, Building 410/Door 123, 250 Murray Lane SW, Washington DC 20509. The Office of General Counsel manages the recruitment and selection of individuals who are interested in being selected to serve on a dispute settlement panel or other similar entity established under trade agreements to resolve trade disputes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: Annex 1901.2 of the North American Free Trade Agreement (NAFTA), section 402 of the NAFTA Implementation Act, as amended (19 U.S.C. 3432), section 123(b) Uruguay Round Agreement Act (19 U.S.C. 3533(b)).

PURPOSE(S) OF THE SYSTEM: To recruit and select appropriately qualified individuals to serve as members of a dispute settlement panel or other similar entity to resolve trade disputes. By applying for a position, an individual is deemed to consent to sharing the application with foreign governments, the World Trade Organization and the NAFTA Secretariat, to the extent the records are relevant and necessary to determining eligibility or assessing qualifications for service on a particular panel.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals who apply for selection to serve on a dispute settlement panel or other similar entity established under trade agreements to resolve trade disputes.

CATEGORIES OF RECORDS IN THE SYSTEM: Applications from potential and appointed advisory dispute settlement panelists. The records typically include correspondence with the candidate/panelist, a resume/CV, United States citizenship status, information regarding registration under the Foreign Agents Registration Act (22 U.S.C. 611), lists of publications and speeches, descriptions of professional affiliations, lists of clients, information regarding substantive qualifications in trade law, and the names of references. Additional records may include disclosure forms with information about financial interests, affiliations, and the identity of clients of the candidate/panelist or his/her firm necessary to determine if s/he has a potential conflict-of-interest with respect to service on a specific panel.

RECORD SOURCE CATEGORIES: The individual applying for or serving as a dispute settlement panelist.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: We may disclose records or information contained in the records, as a routine use to:

1. Any federal agency if the records are relevant and necessary to carry out that agency's authorized functions and to the decision on a matter, including, but not limited to, determining eligibility or assessing qualifications for service on a particular panel.

2. The legal representative of USTR or another federal agency, including the US Department of Justice, or other retained counsel, when USTR or any of its employees are a party to or have a significant interest in litigation or an administrative proceeding.

3. A court, magistrate, administrative tribunal, or alternative dispute resolution mediator in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation or settlement negotiations or in connection with criminal

proceedings, when the information is relevant and necessary and USTR or any of its employees are a party to or have a significant interest in the proceeding.

4. The appropriate federal, state, local, territorial, tribal or foreign law enforcement authority or other appropriate entity responsible for investigation, enforcement, implementation or prosecution, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law whether criminal, civil or regulatory in nature.

5. A congressional office in response to an inquiry made on behalf or at the request of the subject individual.

6. Any source, including a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, but only to the extent necessary to obtain information relevant to the appointment or retention of an individual.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records are maintained in file folders and electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are organized by the name of the panel and the candidate/member name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained for six years and then destroyed.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS: File folders are maintained in cabinets in secure facilities and access to the files is restricted to individuals whose role requires use of the records. The computer servers in which records are stored are located in secure, guarded facilities. Individuals accessing the system are authenticated using encrypted certificates and data stored to the database may require digital signatures.

RECORD ACCESS PROCEDURES: In accordance with the procedures set forth in 15 CFR part 2004, subpart C, direct inquiries in writing to the USTR Privacy Act Office. Heightened security may delay mail delivery. To avoid mail delays, we strongly suggest that you email your request to PRIVACY@ustr.eop.gov. Our mailing address is: Privacy Act Office, Office of the US Trade Representative, Anacostia Naval Annex, Building 410/Door 123, 250 Murray Lane SW, Washington DC 20509. To make sure that the Privacy Act Office receives your request without delay, you should include the notation “Privacy Act Request” in the subject line of your email or on the front of your envelope and also at the beginning of your request.

CONTESTING RECORD PROCEDURES: See record access procedures.

NOTIFICATION PROCEDURES: See record access procedures.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: 66 FR 59837 (Nov. 30, 2001).

SYSTEM NUMBER AND NAME: USTR-2 Trade Advisory Committee Members and Applicants.

SECURITY CLASSIFICATION: None.

SYSTEM LOCATION/MANAGER: Office of the US Trade Representative, Office of Intergovernmental Affairs and Public Engagement, 600 17th Street NW, Washington DC 20508. The mailing address is: Office of the US Trade Representative, Office of Intergovernmental Affairs and Public Engagement, Anacostia Naval Annex, Building 410/Door 123, 250 Murray Lane SW, Washington DC 20509. The Office of Intergovernmental Affairs and Public Engagement (IAPE) administers the trade advisory committee system for the Office of the US

Trade Representative (USTR). Among other things, IAPE recruits individuals to serve as committee members and manages the individuals who are appointed to serve on the committees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 19 U.S.C. 2155.

PURPOSE(S) OF THE SYSTEM: To ensure that individuals who apply to become and who are appointed to serve as a member of a trade advisory committee meet all of the eligibility requirements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals who apply for selection to serve as a trade advisory committee member.

CATEGORIES OF RECORDS IN THE SYSTEM: Applications from potential and appointed advisory committee members. The records typically include correspondence with the applicant/member, a resume/CV, United States citizenship status, information regarding registration under the Foreign Agents Registration Act (22 U.S.C. 611), and descriptions of professional affiliations.

RECORD SOURCE CATEGORIES: The individual applying for or serving as a trade advisory committee member; USTR personnel assigned to review applications; and other agencies or entities that play a role in determining eligibility or assessing qualifications for service on a particular committee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: We may disclose records or information contained in the records, as a routine use to:

1. Any federal agency if the records are relevant and necessary to carry out that agency's authorized functions and to the decision on a matter, including, but not limited to, determining eligibility or assessing qualifications for service on a particular committee.

2. The legal representative of USTR or another federal agency, including the US Department of Justice, or other retained counsel, when USTR or any of its employees are a party to or have a significant interest in litigation or an administrative proceeding.

3. A court, magistrate, administrative tribunal, or alternative dispute resolution mediator in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation or settlement negotiations or in connection with criminal proceedings, when the information is relevant and necessary and USTR or any of its employees are a party to or have a significant interest in the proceeding.

4. A congressional office in response to an inquiry made at the request of the subject individual.

5. Any source, including a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, but only to the extent necessary to obtain information relevant to the appointment or retention of an individual.

6. The appropriate federal, state, local, territorial, tribal or foreign law enforcement authority or other appropriate entity responsible for investigation, enforcement, implementation or prosecution, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law whether criminal, civil or regulatory in nature.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records are maintained in file folders and electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are organized by the name of the committee and the applicant/member name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained for the duration of the charter of the committee to which the individual has applied and then destroyed.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS: File folders are maintained in cabinets in secure facilities and access to the files is restricted to individuals whose role requires use of the records. The computer servers in which records are stored are located in secure, guarded facilities. Individuals accessing the system are authenticated using encrypted certificates and data stored to the database may require digital signatures.

RECORD ACCESS PROCEDURES: In accordance with the procedures set forth in 15 CFR part 2004, subpart C, direct inquiries in writing to the USTR Privacy Act Office. Heightened security may delay mail delivery. To avoid mail delays, we strongly suggest that you email your request to PRIVACY@ustr.eop.gov. Our mailing address is: Privacy Act Office, Office of the US Trade Representative, Anacostia Naval Annex, Building 410/Door 123, 250 Murray Lane SW, Washington DC 20509. To make sure that the Privacy Act Office receives your request without delay, you should include the notation “Privacy Act Request” in the subject line of your email or on the front of your envelope and also at the beginning of your request.

CONTESTING RECORD PROCEDURES: See record access procedures.

NOTIFICATION PROCEDURES: See record access procedures.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

SYSTEM NUMBER AND NAME: USTR-3 Freedom of Information Act and Privacy Act Records.

SECURITY CLASSIFICATION: Certain responsive records may be classified as Confidential Foreign Government Information pursuant to section 1.4(b) of Executive Order 13526.

SYSTEM LOCATION/MANAGER: Office of the US Trade Representative, FOIA/Privacy Office, 600 17th Street NW, Washington DC 20508. The mailing address is: Office of the US Trade Representative, FOIA/Privacy Office, Anacostia Naval Annex, Building 410/Door 123, 250 Murray Lane SW, Washington DC 20509.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: The Office of the US Trade Representative (USTR) established and maintains the system pursuant to 5 U.S.C. 301 and 44 U.S.C. 3101, to implement the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a.

PURPOSE(S) OF THE SYSTEM: To enable USTR to process requests and administrative appeals under the FOIA and the Privacy Act. To participate in litigation regarding agency action on such requests and appeals.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: The system encompasses all individuals who submit requests and appeals to USTR under the FOIA and the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM: Records created or compiled in response to FOIA and Privacy Act requests and administrative appeals, including: the original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and, in some instances, copies of requested records and records under administrative appeal.

RECORD SOURCE CATEGORIES: The individuals who submit initial requests and administrative appeals pursuant to the FOIA and the Privacy Act; the USTR records compiled to

respond to requests and appeals; USTR personnel assigned to handle requests and appeals; other agencies or entities that have referred requests concerning USTR records, or that have consulted with USTR regarding the handling of particular requests; submitters or subjects of records or information that have provided assistance to USTR in making access or amendment determinations; and The National Archives and Records Administration (NARA), Office of Government Information Services (OGIS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES: We may disclose records or information contained in the records, as a routine use to:

1. A federal, state, local or foreign agency or entity for the purpose of consulting with that agency or entity to enable USTR to make a determination as to the propriety of access to or correction of information, or for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment of information.

2. A federal agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or correction of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

3. A submitter or subject of a record or information in order to assist USTR in making a determination as to access or amendment.

4. OGIS, to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the FOIA, and to facilitate

OGIS' offering of dispute resolution services to resolve disputes between persons making FOIA requests and administrative agencies.

5. A congressional office in response to an inquiry made on behalf or at the request of the subject individual.

6. The legal representative of USTR or another federal agency, including the US Department of Justice, or other retained counsel, when USTR or any of its employees are a party to or have a significant interest in litigation or an administrative proceeding.

7. A court, magistrate, administrative tribunal, or alternative dispute resolution mediator in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation or settlement negotiations or in connection with criminal proceedings, when the information is relevant and necessary and USTR or any of its employees are a party to or have a significant interest in the proceeding.

8. The appropriate federal, state, local, territorial, tribal or foreign law enforcement authority or other appropriate entity responsible for investigation, enforcement, implementation or prosecution, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law whether criminal, civil or regulatory in nature.

9. NARA for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records are maintained in file folders and electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records are organized by the number assigned to the request or appeal. USTR can search the electronic database by the name of the requester or appellant.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with NARA's General Records Schedule 14.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS: File folders are maintained in cabinets in secure facilities and access to the files is restricted to individuals whose role requires use of the records. The computer servers in which records are stored are located in secure, guarded facilities. Individuals accessing the system are authenticated using encrypted certificates and data stored to the database may require digital signatures.

RECORD ACCESS PROCEDURES: In accordance with the procedures set forth in 15 CFR part 2004, subpart C, direct inquiries in writing to the USTR Privacy Act Office. Heightened security may delay mail delivery. To avoid mail delays, we strongly suggest that you email your request to PRIVACY@ustr.eop.gov. Our mailing address is: Privacy Act Office, Office of the US Trade Representative, Anacostia Naval Annex, Building 410/Door 123, 250 Murray Lane SW, Washington DC 20509. To make sure that the Privacy Act Office receives your request without delay, you should include the notation "Privacy Act Request" in the subject line of your email or on the front of your envelope and also at the beginning of your request.

CONTESTING RECORD PROCEDURES: See record access procedures.

NOTIFICATION PROCEDURES: See record access procedures.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

Janice Kaye

Chief Counsel for Administrative Law

Office of the U.S. Trade Representative.

[FR Doc. 2016-30496 Filed: 12/21/2016 8:45 am; Publication Date: 12/22/2016]